In the High Court of Uttaranchal, at Nainital.

Criminal Misc. Applicatiojn No. 585 of 2006

Irfan S/o Phool Mohammad R/o Jalalpur Dada,
Pargana Bhagwanpur, Tehsil Roorkee.
District Haridwar ... Petitioner.

Versus

State of Uttaranchal,
Through Ministry of Home Affairs,
Civil Secretariat, Dehradun ... Respondent.

Sri Pankaj Miglani, learned counsel for the petitioner.
Learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition U/S 482 Cr.P.C. has been preferred by the petitioner challenging the judgment and order dated 1-4-2006 and 18-7-2006 passed by the Sub Divisional Magistrate as well as the District Judge respectively.

2- Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

3- The record reveals that the learned Sub Divisional Magistrate vide order dated 1-4-2006 directed the petitioner to transfer the coal-furnaces somewhere else or to stop them and then produce his evidence before the court showing cause as to why the order dated 1-4-2006 be not made absolute.

4- Feeling aggrieved by the aforesaid order revision was preferred. The revision was also dismissed by the learned District and Sessions Judge vide his judgment order dated 18-7-2006.

5- The material available before me thus makes the picture clear that the petitioner still has an opportunity to adduce evidence before the Sub Divisional Magistrate. The revisional court has also directed the petitioner to produce his evidence before the Sub Divisional Magistrate and the Sub Divisional Magistrate after affording an opportunity to the respective parties and hearing the parties shall pass the appropriate order in accordance with law.

6- It is thus clear that the petitioner has an opportunity to adduce the evidence before the Sub Divisional Magistrate and the Sub Divisional Magistrate soon after hearing the parties and having perused the evidence to be adduced by the parties, will pass the appropriate order in accordance with law.

7- Accordingly, I direct that the petitioner shall produce the evidence in support of his case before the Sub Divisional Magistrate, who will pass the order after affording an opportunity to the parties in accordance with law.

8- The impugned order dated 1-4-2006 passed by the Sub Divisional Magistrate shall be kept in abeyance till the final disposal of the case by the Sub Divisional Magistrate.

9- With the aforesaid observation this petition is finally disposed of.

(B.C. Kandpal, J.)

Dated 27-07-2006
ISB